

City of South Bend Common Council

441 County-City Building • 227 W. Jefferson Blvd
South Bend, Indiana 46601-1830

(574) 235-9321
Fax (574) 235-9173
<http://www.southbendin.gov>

Derek D. Dieter
President

August 9, 2012

Oliver J. Davis
Vice-President

Mr. Thomas E. Perez
Assistant Attorney General for the
Civil Rights Division
U.S. Department of Justice
Civil Rights Division
950 Pennsylvania Ave., N.W.

Karen L. White
Chairperson, Committee
of the Whole

Office of the Assistant Attorney General, Main
Washington D.C. 20530

Tim Scott
First District

Henry Davis, Jr.
Second District

Dear Mr. Perez,

Valerie Schey
Third District

We need a full investigation into the policies, practices and behaviors of members of the South Bend Police Department. I believe an investigation by an outside, third party will help to allay concerns that there is a racist and criminal culture within the department.

Fred Ferlic
Fourth District

Currently the South Bend Police Department is embroiled in the makings of a scandal that has the capacity to impact our city negatively and threatens the safety of our citizens and police officers. There is a sizable and growing contingent of frustrated citizens who believe that our police department's treatment of minorities is biased. This contingent is calling for a comprehensive investigation of high ranking law enforcement officials, their practices, and the behaviors that led to the demotion of the city's first African-American Chief of Police, the firing of the police department's communications director, and the death of an African-American man in police custody.

David Varner
Fifth District

Oliver J. Davis
Sixth District

Derek D. Dieter
At Large

Gavin Ferlic
At Large

In April 2012 then-Chief of Police Darryl Boykins was forced to resign his post and South Bend Police Communications Director Karen DePaepe was fired by our Mayor for "violating" South Bend Police Department Policy by tapping and/or listening to conversations made by police department personnel. The personnel actions taken by Mayor Peter Buttigieg were swift and without input outside his Chief of Staff Mike Schmuhl and Special Attorney Rich Hill.

Karen L. White
At Large

Once these personnel actions became public the mayor informed that the FBI was involved and he could not divulge any information dealing with the recordings as a result of the FBI's involvement. Furthermore, the

Mayor claimed that providing the Common Council or South Bend residents any information would breach the FBI's investigative process. He refused to answer any questions privately or publicly regarding the issue. The big issue with the action taken by the Mayor's office is 3-fold:

1. This entire process was cloaked in secrecy. Further, in a public statement the FBI did not substantiate the mayor's claims that he was under a gag order.
2. It has been alleged that the recorded conversations Depaepe and Boykins were listening to documented South Bend Police Officers employing the use of racial epithets to describe the former chief. Depaepe has said that the officers' conversations contained, unethical, racial, and possibly criminal content.
3. The police officers recorded in the conversations admit to using off-color or politically incorrect language and are now suing the city because they feel their rights have been breached. Similarly, the former chief and Depapepe are suing for wrongful termination.

Michael Anderson, a South Bend resident died in the custody of the police. Like the former chief, the young man is African-American. Based on the preliminary investigation, officers began pursuing Anderson while investigating a report of a stolen moped. Anderson is said to have fled on a mo-ped and that he was riding it while the officers chased him on foot. When the officers apprehended him he was choking on a plastic bag with marijuana and a dollar bill. Police called paramedics after fifteen to twenty minutes of CPR to the scene and he was transported to a local hospital where he later allegedly died. Randy Magdalinski, St. Joseph County deputy coroner, had ruled Anderson's death accidental due to the plastic bag obstructing his airway per the South Bend Tribune. The prosecutor's office is on record stating that there is no indication police acted improperly or caused Anderson's death, though the office notes the investigation is ongoing.

However, the pulse of the community indicates a different take on the issue. There are reports of excessive use of a Taser gun and that the police stuffed the bag of marijuana down the young man's throat after they apprehended him. The Anderson family does not trust the findings of the police department or the coroner and as a result they hired a private investigator.

Their private investigator believes that South Bend Police Department officers are responsible for Anderson's death. Prior to his death, Anderson was a victim of police shakedowns, where officers would allegedly take any drugs and money he had on him.

The investigator found witnesses who said that when police found Anderson to be unresponsive, one of the officers went to the trunk of his cruiser and fished out a long skinny device, orange in color, with a wide-scoop-like end. The police report indicates that the instrument they fished out was used to try and retrieve the bag of marijuana Anderson allegedly tried to swallow. This conflicts with the private investigator's witness statements. Witnesses told her that the police were jamming the instrument down his throat.

The private investigator examined Anderson's body and the scene where he died. She reports that she found a mark under his arm, on his side, and a mark she believes is a burn above his right eye. She believes that the burn mark was caused by the electricity from the Taser gun. She believes that one of the Taser probes stuck into Anderson's flesh and that when he fell down, his shoeless feet were in a puddle; and that this caused him to electrify. And, to exacerbate the issue further, several years ago, Michael Anderson was a witness for the defense at the murder trial of Erskin Jenkins.

According to court documents, during the proceedings Anderson accused Lt. David Wells of threatening him and Anderson verbalized the threat aloud, turning it into a question during the proceedings: "I'm going to the penitentiary?" Jurors at the trial told the bailiff that they had witnessed Wells communicating with Anderson during the testimony.

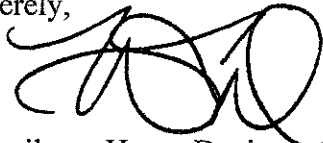
Lt. Wells is second in command at the County Metro Homicide. Moreover, Lt. Wells and Tim Corbett, another high ranking officer in the Metro Homicide Department, are the police officers who have been recorded having politically incorrect, racial insensitive, and, perhaps, criminal discussions on police department telephones. Both officers have filed notices of tort claim against the city claiming private conversations they have had with Detective Brian Young of the South Bend Police Department may have been illegally recorded.

Questions abound concerning the integrity of this investigation. Citizens are distrustful and lack confidence in the results of the investigation. There seems to be conflicting accounts and prior history that is enveloped in alleged bad and racist behavior.

There has been a breach of trust. Too many of our residents do not believe the official report and do not trust the county or city officials to deal with this issue appropriately.

Just recently I have become aware of threats being made to harm and/or kill police officers. I am troubled by this deeply. There is a high level of discontent brewing. This letter is a plea to the Justice Department for immediate intervention for the protection and safety of our residents and police officers in South Bend.

Sincerely,

A handwritten signature in black ink, appearing to be "H. Davis, Jr.", with a stylized, cursive script.

Councilman Henry Davis, Jr.